

Application No.: 10/599352
Filing Date: October 18, 2007

REMARKS

Claims 1-11 and 14-16 were pending in the present application. In this Response, Claims 1, 3-4, 10, and 14-15 have been amended. Accordingly, Claims 1-11 and 14-16 remain pending for consideration. Applicants respectfully request that the Examiner reconsider the current rejections in view of the amendments set forth above and the remarks provided below.

Claim Objection

Claim 1 was objected to because of the informality “to a patient” in line 3. Claim 1 has been amended herein to recite “to a patient.” Applicants therefore respectfully request that the objection be withdrawn.

Claim Rejections Under 35 U.S.C. § 112

The Office Action rejected independent Claim 1 and dependent Claims 2-9 under 35 U.S.C. § 112, second paragraph, as indefinite. Specifically, Claim 1, line 9 recites “additional passageway,” which the Office Action states is unclear because a first passageway has not yet been introduced. Claim 1 has been amended herein to recite “a passageway.” Accordingly Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 112.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-11 and 14 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,779,687 to Bell et al. in view of U.S. Patent No. 5,513,628 to Coles et al. Applicants respectfully traverse the rejections because Bell, alone or in combination with Coles, fails to teach or suggest each and every recited limitation of the rejected claims.

Claim 1

Claim 1 recites, among other limitations, “a catheter mount . . . including a passageway for receiving an aspirating system, said passageway covered by a *seal located on an outer edge of said passageway*.” In contrast, neither Bell nor Coles teaches a seal located on an outer edge of the passageway that receives the aspirating system. The sliding seal 50 of Bell is located within the passageway formed by 44 as shown in Figure 2 below.

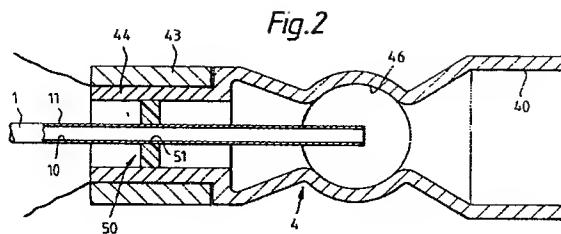


Figure 2 of Bell

Coles also explains that the directional barrier 155 is “[s]ituated within the space 125 of the body 110” as shown in Figure 1 below. Col. 7, lns. 63-64.

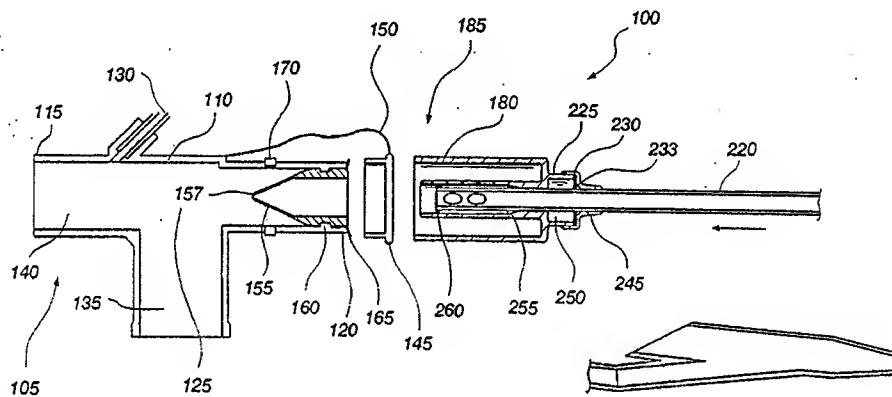


Fig. 1

Figure 1 of Coles

Moreover, Coles discloses that the “directional barrier may be structured to effect a resilient seal both against an internal surface of the open interior of the manifold body and between the proximal end portion of the body and the catheter carrier.” Col. 4, lns. 58-61.

Furthermore, there is no motivation to combine Bell and Coles, and the modification of Bell with the teachings of Coles is based upon impermissible hindsight. The present application explains that in some prior art aspirating systems the “catheter tube also comes into contact with the external parts of the seal as it penetrates through it, allowing it to pick up germs.” Pg. 1, lns. 31-33. Therefore, Claim 1 provides for a system having a “piercing member capable of piercing said seal when said proximal connector and said catheter mount are connected, said suction tube capable of passing through said piercing member and not contacting said seal.”

The Office Action states that it would have been obvious to modify Bell with the piercing member of Coles to eliminate contamination of the suction tube. However, Bell discloses that the “aspirating catheter 1 is mainly of PVC but contains an antimicrobial substance so that it has an external surface 11 which has antimicrobial properties.” Col. 3, ln. 66-Col. 4, ln. 1. The “antimicrobial surface 11 minimizes the growth of bacteria on the catheter and enables the assembly to be used for periods of up to about 48 hours depending on how frequently the assembly is used.” Col. 4, lns. 39-42. The background of Bell explains that the “sliding seal in the assembly removes some of the secretions clinging to the outside of the aspirating catheter each time it is withdrawn but, nevertheless, some will remain on the external surface of the catheter. Col. 1, lns. 44-47. Bell’s solution to this problem was the antimicrobial surface. Therefore, there would have been no reason to modify Bell with the re-sealable mechanism within the catheter mount and proximal connector with piercing member of Coles to prevent contamination of the catheter as Bell had addressed the contamination problem with the microbial surface.

Thus, Claim 1 is not obvious over Bell in view of Coles for at least these reasons. Claims 2-9 depend from Claim 1. Therefore, these claims are not obvious over the applied art for at least the same reasons discussed above with respect to Claim 1. In addition, Claims 2-9 distinguish over the applied art for the unique combinations of features recited in those claims.

Claim 10

Claim 10 recites, among other limitations, a “proximal connector adapted to releasably connect to said catheter mount and comprising an integrally formed piercing member, *a proximal end of said piercing member defining a most proximal point of said proximal connector*, said piercing member capable of piercing a seal of said catheter mount.” The Office Action correctly states that Bell lacks a piercing member. However, the Office Action incorrectly relies on the introducer tip 200 of Coles to satisfy the claim limitation. In contrast to the piercing member of Claim 10, the introducer housing 180 rather than the introducer tip 200 defines the most proximal point of the catheter adapter 185 of Coles.

Thus, Claim 10 is not obvious over Bell in view of Coles for at least these reasons. Claim 11 depends from Claim 10 and therefore is not obvious over the applied art for at least the

same reasons discussed above with respect to Claim 10. In addition, Claim 11 distinguishes over the applied art for the unique combination of features recited therein.

Claim 14

Claim 14 recites, among other limitations, a catheter mount comprising “at least three passageways . . . a third of said at least three passageways being covered by a seal, *said seal located on an outer edge of said third of said at least three passageways*.” Thus Claim 14 is not obvious over Bell in view of Coles for at least the reasons discussed above with respect to Claim 1.

Claim Rejections Under 35 U.S.C. §§ 102 and 103

Claims 15 and 16 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,287,280 to Lampropoulos et al. or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Lampropoulos. Applicants respectfully traverse the rejection because Lampropoulos fails to teach or suggest each and every limitation of the rejected claims. For example, Claim 15 recites, among other limitations, a catheter tube connector having an outer cup-shaped fitting, an inner cup-shaped fitting, and “a *piercing member* nested within said inner cup-shaped fitting and *integrally formed with said outer cup-shaped fitting* . . . said piercing member extending beyond said rim of said outer cup-shaped fitting” as shown in Figure 5 of the present application.

In contrast, the introducer 24 of Lampropoulos is “*moveably coupled* to locking nut 32.” Col. 5, Ins. 9-10 (emphasis added). Figure 4 shows the introducer 24 in a first position where the introducer 24 does not extend beyond the locking nut 32. The introducer 24 only extends through resilient seal 28 beyond the locking nut 32 in a second position, shown in Figure 5.

Thus, Claim 15 is not anticipated by or obvious over Lampropoulos for at least these reasons. Claim 16 depends from Claim 15 and therefore is not anticipated by or obvious over the applied art for at least the same reasons discussed above with respect to Claim 15. In addition, Claim 16 distinguishes over the applied art for the unique combination of features recited therein.

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No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

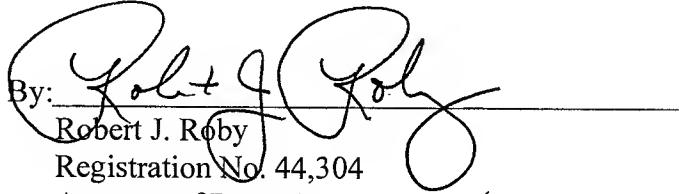
Docket No.	Serial No.	Title	Filed
FPHCR.123DA	29/359,361	Connector for a Patient Ventilating and Aspirating System	04-09-2010

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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